

REMARKS

Status of the Claims

The Amendment submitted herewith is supplemental to the amendment submitted to the Office on April 30, 2009, and is further in response to the non-final Office Action, which issued on January 30, 2009. The Examiner is respectfully requested to enter and consider the instant supplemental amendment as well as the amendment submitted on April 30, 2009.

Claims 1-3 and 5-26 are pending in the present application. Claim 4 was previously canceled. Claim 22 is withdrawn from consideration as directed to a non-elected invention. Claim 15 is amended to cancel step 2 at line 7. As amended, claim 15 specifies that the medium enriched in a metal salt containing copper ion is used in step 4). Support for this amendment is found, *e.g.*, in paragraph [0025] of the application as originally filed, which is based upon Applicants' findings that growth of regenerated plants is promoted by regenerating transformed plants materials using such a medium. Claim 15 is amended without prejudice or disclaimer. No new matter is entered by way of this amendment. Reconsideration is respectfully requested.

Issues Under 35 U.S.C. § 102(b)

Claims 1-6, 8-21, 23 and 24 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 7,238,862 to Allison *et al.*, ("Allison"), *see Office Action*, pages 2-4. Applicants respectfully traverse.

As noted in the Amendment submitted on April 30, 2009, Applicants stated that Allison was published on August 14, 2003, as U.S. Patent Application No. 2003/0154517. The instant application is a national stage application of PCT Application No. PCT/JP2004/011599, which was filed on August 12, 2004. Accordingly, Allison was published less than one year before the filing date of the instant application. Therefore, Allison is not a reference under 35 U.S.C. § 102(b), but may be cited under another subsection of 35 U.S.C. § 102.

Applicants respectfully submit that it is not necessary for Applicants to respond to this rejection until the Examiner addresses this error. Notwithstanding the foregoing, Applicants previously provided arguments regarding the novelty of claims 1-3, 5-14, and 23-26. Applicants will respond to the rejection regarding claims 15-21, as amended, once the Examiner states on

the record the subsection of 35 U.S.C. § 102, under which Allison should be cited.

Issues Under 35 U.S.C. § 103(a)

Claims 1-21, 23, and 24 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over Allison in view of U.S. Patent No. 6,162,965 to Hansen, ("Hansen"), *see Office Action*, pages 4-6. Applicants respectfully traverse,

As noted above, Allison is not a reference under 35 U.S.C. § 102(b), as described above. Notwithstanding the foregoing, Applicants previously provided arguments regarding the patentability of claims 1-3, 5-14, and 23-26, over Allison in view of Hansen. Applicants will respond to the rejection regarding claims 15-21, as amended, once the Examiner states on the record the subsection of 35 U.S.C. § 102, under which Allison should be cited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Linda T. Parker, Reg. No. 46,046, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By

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